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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/824,636

04/14/2004

Kenneth H. Abbott

890057.417C2

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500 7590 03/05/2007

SEED INTELLECTUAL PROPERTY LAW GROUP PLLC

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SUITE 5400

SEATTLE, WA 98104

EXAMINER

HAILU, TADESSE

ART UNIT

PAPER NUMBER

2173

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
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3 MONTHS

03/05/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

## Office Action Summary

Application No.

10/824,636

Applicant(s)

ABBOTT ET AL.

Examiner

Tadesse Hailu

Art Unit

2173

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 14 April 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-17 is/are rejected.
- 7) ☒ Claim(s) 18-20 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 14 April 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>10/1/04</u> .   | 6) <input type="checkbox"/> Other: _____                          |

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### **DETAILED ACTION**

1. This Office Action is in response to the Preliminary Amendment submitted on April 14, 2004.

#### ***Priority***

2. The present application number is a continuation of 09724932 which is a continuation in part of 09216193 which is a continuation in part of 09464659 which Claims Priority from Provisional Application 60194759 which Claims Priority from Provisional Application 60193999

#### ***Information Disclosure Statement***

3. The *Information Disclosure Statement* submitted on October 1, 2004 has been considered and entered. The non-patent references were submitted in the earlier filed applications.

#### ***Status of the claims***

4. The Applicant canceled claims 21-88 during the preliminary amendment, claims 1-20 are pending and examined herein as follows.

#### ***Double Patenting***

A rejection based on double patenting of the "same invention" type finds its support in the language of 35 U.S.C. 101 which states that "whoever invents or discovers any new and useful process ... may obtain a patent therefor ..." (Emphasis added). Thus, the term "same invention," in this context, means an invention drawn to identical subject matter. See *Miller v. Eagle Mfg. Co.*, 151 U.S. 186 (1894); *In re Ockert*, 245 F.2d 467, 114 USPQ 330 (CCPA 1957); and *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970).

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A statutory type (35 U.S.C. 101) double patenting rejection can be overcome by canceling or amending the conflicting claims so they are no longer coextensive in scope. The filing of a terminal disclaimer cannot overcome a double patenting rejection based upon 35 U.S.C. 101.

5. Claims *1 through 7* are rejected under 35 U.S.C. 101 as claiming the same invention as that of claims *1 through 7* of prior U.S. Patent No. 6,747,675. This is a double patenting rejection.

### ***Claim Rejections - 35 U.S.C. § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

6. Claims 8, and 14-17 are rejected under 35 U.S.C. 102(a) as being anticipated by Goh, et al "Context Interchange: New Features and Formalisms for the Intelligent Integration of Information," ACM Transactions on Information Systems, 1997 (see the IDS submitted, page 5 of 8 referenced by EL).

With regard to claim 8:

Goh describes a Context Interchange model that allows knowledge of data semantics to be independently captured in sources (servers) and receivers (clients), while allowing a specialized mediator (the Context Mediator) to undertake the role of detecting and reconciling potential conflicts at the time a query is submitted (Goh: pages 4, 16). Goh further describes a computer-implemented method (fig. 2) for providing mediated information (cost information, for example) about a current state that is

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modeled with multiple state attributes (revenue is reported in JPY and USD currencies) (Goh: page 5-6).

Furthermore, the context interchange system of Goh further includes a plurality of autonomously-administers data sources (figs. 1 and 2). When a user is interested to receive data values from a plurality of autonomously-administers data sources (first and second) for an indicated (via a query) one of the state attributes (such as companies profit in USD currency), then the context mediator sends the answers to the query, wherein the answers to be returned to the user are further transformed (mediated) so that they conform to the context of the USER (receiver) (pages 5,6). The returned mediated value includes at least the first and second (USD, JPY currencies) (page 6).

With regard to claim 14:

as per "the indicated state attribute represents a current prediction about a future state." (page 17).

With regard to claim 15:

as per "the client indication is an indication of an interest in receiving values for the indicated. state attribute, and wherein the produced mediated value is pushed to the client in response to the receiving of at least one of the first and second values." (Goh: pages 3, 7, and 11).

With regard to claim 16:

as per "the client indication is a request for the value for the indicated state attribute, and including requesting the first and second sources to supply the first and

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second values in response to the receiving of the request." ( Goh: pages 3, 7, and 11, Fig. 1).

With regard to claim 17:

as per "the client indication is a request for the value for the indicated state attribute, and wherein the sending of the produced mediated value is in response to the receiving of the request." (Goh: pages 3, 7, and 11, Fig. 1).

***Claim Rejections - 35 U.S.C. § 103***

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 9-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Goh, et al "Context Interchange: New Features and Formalisms for the Intelligent Integration of Information," ACM Transactions on Information Systems, 1997 in view of Schmidt, et al., "There is more to Context than Location: Environment Sensing Technologies for Adaptive Mobile User Interfaces," 11/1998 (see the IDS submitted, page 7 of 8 referenced by GE).

With regard to claims 9-13:

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While Goh describes user's attribute data, but Goh fails to describe the state attribute data representing information about a user, mental state, location, cyber-environment, and information about the computer. Schmidt describes the above shortcomings of Goh (see Fig. 1, page 1). Therefore, it would have been obvious to one having ordinary skill in the art at the time of the invention was made to incorporate the state attribute representing information about the user with Goh's context Interchange system because the system will be able to use the user information (state attributes) as feedback when responding user's queries.

***Allowable Subject Matter***

9. Claims 1-7 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 101, set forth in this Office action.

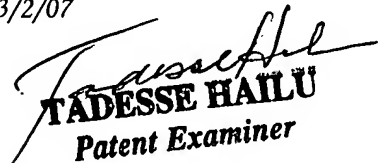
10. Claims 18-20 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

### Conclusion

11. Any inquiry concerning this communication or earlier communications from the Examiner should be directed to *Tadesse Hailu*, whose telephone number is (571) 272-4051. The Examiner can normally be reached on M-F from 10:00 - 7:30 ET. If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's supervisor, Kristine Kincaid can be reached at (571) 272-4063 Art Unit 2173.

12. Information regarding the status of an application may be obtained from the patent application information retrieval (PAIR) system. Status information for published application may be obtained from either Private -PAIR or Public-PAIR. Status information for unpublished applications is available through Private-PAIR only. For more information about the PAIR system, please see [pair-direct.uspto.gov](http://pair-direct.uspto.gov) web site. Should you have questions regarding access to the PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

*Examiner Tadesse Hailu*  
*Art Unit 2173 – Operator Interface*  
*3/2/07*

  
**TADESSE HAILU**  
*Patent Examiner*